

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SHANNON G.,

Plaintiff,

V.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. C22-5372 JHC

ORDER AFFIRMING AND DISMISSING THE CASE

Plaintiff seeks review of the denial of her application for Supplemental Security Income.

Plaintiff contends the Administrative Law Judge (ALJ) erred by failing to properly evaluate her symptom testimony and the medical opinion evidence. Dkt. 12. As discussed below, the Court **AFFIRMS** the Commissioner's final decision and **DISMISSES** the case with prejudice.

I. BACKGROUND

Plaintiff is 48 years old, has at least a high school education, and has no relevant past work. Admin. Record (AR) 22. On February 15, 2019, Plaintiff applied for benefits, alleging disability as of January 1, 2009. AR 15, 79, 91. Plaintiff's application was denied initially and on reconsideration. AR 15, 88, 100. After the ALJ conducted a hearing on April 6, 2021, the ALJ issued a decision finding Plaintiff not disabled. AR 12-77.

II. THE ALJ'S DECISION

Using the five-step disability evaluation process,¹ the ALJ found:

Step one: Plaintiff has not engaged in substantial gainful activity since February 15, 2019, the application date.

Step two: Plaintiff has the following severe impairments: attention deficit hyperactivity disorder (ADHD); posttraumatic stress disorder (PTSD); major depressive disorder; and generalized anxiety disorder.

Step three: These impairments do not meet or equal the requirements of a listed impairment.²

Residual Functional Capacity: Plaintiff can perform less than the full range of medium work as defined in 20 C.F.R. § 416.967(c).

Step four: Plaintiff has no past relevant work.

Step five: As there are jobs that exist in significant numbers in the national economy that Plaintiff can perform, Plaintiff is not disabled.

AR 17–23. The Appeals Council denied Plaintiff’s request for review, making the ALJ’s decision the Commissioner’s final decision. AR 1–6.³

III. DISCUSSION

The Court may reverse the ALJ's decision only if it is legally erroneous or not supported by substantial evidence of record. *Ford v. Saul*, 950 F.3d 1141, 1154 (9th Cir. 2020). The Court must examine the record but cannot reweigh the evidence or substitute its judgment for the ALJ's. *Thomas v. Barnhart*, 278 F.3d 947, 954 (9th Cir. 2002). When evidence is susceptible to more than one interpretation, the Court must uphold the ALJ's interpretation if rational. *Ford*, 950 F.3d at 1154. Also, the Court "may not reverse an ALJ's decision on account of an error

¹ 20 C.F.R. § 416.920.

² 20 C.F.R. Part 404, Subpart P, Appendix 1.

³ The rest of the procedural history is irrelevant to the outcome of the case and is thus omitted.

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1 that is harmless.” *Molina v. Astrue*, 674 F.3d 1104, 1111 (9th Cir. 2012).

2 A. Plaintiff’s Testimony

3 Plaintiff contends the ALJ erred in evaluating her symptom testimony. Dkt. 12 at 2–6.

4 At the hearing before the ALJ, Plaintiff testified she cannot work because of mental
5 health impairments, including PTSD, ADHD, and anxiety. AR 43. Plaintiff testified she lives
6 by herself, she goes to the foodbanks “a lot,” and goes shopping once a month. AR 46. She
7 stated she mostly stays at home, and that except for going on walks with her neighbor, she does
8 not go out much because she does not like being around others. AR 46–47. Plaintiff testified
9 she takes medication for her mental health impairments, but they are not always effective, as she
10 experiences periods of severe anxiety and panic attacks that can last several days to a week. AR
11 48–54. Plaintiff testified that when her anxiety worsens, she lays in bed, she cannot go outside to
12 shop for groceries, attend her appointments, go on walks, complete her daily chores, or be
13 around others. AR 55–59.

14 Where, as here, an ALJ determines a claimant has presented objective medical evidence
15 establishing underlying impairments that could cause the symptoms alleged, and there is no
16 affirmative evidence of malingering, the ALJ can only discount the claimant’s testimony about
17 symptom severity by providing “specific, clear, and convincing” reasons supported by
18 substantial evidence. *Trevizo v. Berryhill*, 871 F.3d 664, 678 (9th Cir. 2017).

19 In this case, the ALJ first rejected Plaintiff’s testimony because of her limited work
20 history. AR 20. A claimant’s extremely poor work history can be a clear and convincing reason
21 an ALJ can give in rejecting a claimant’s testimony, as a claimant who has “shown little
22 propensity to work in her lifetime” can hurt her credibility as to her inability to work. *See*
23 *Thomas*, 278 F.3d at 959. Plaintiff’s earnings record from 1990 to 2021 is sparse, with her most

1 recent work taking place in 2007 when she was employed as a caretaker for three months and an
 2 assistant manager for her sister-in-law's construction company. AR 37–41, 185–89. While
 3 Plaintiff's work history is not extensive, the Court cannot say it suggests her "little propensity" to
 4 work, especially considering Plaintiff could not work in 2008 because she was in prison, and that
 5 as recently as October 2019, she worked as a home caretaker in exchange for housing. AR 42,
 6 639. Thus, the Court cannot say the ALJ reasonably rejected her testimony based on her poor
 7 work history.

8 The ALJ also rejected Plaintiff's testimony because it was inconsistent with her activities
 9 of daily living. AR 20–21. An ALJ may discount a claimant's symptom testimony when it
 10 conflicts with the claimant's general activity level. *See Molina*, 674 F.3d at 1112–13;
 11 *Lingenfelter v. Astrue*, 504 F.3d 1028, 1040 (9th Cir. 2007). Here, in rejecting Plaintiff's
 12 statements, the ALJ cited Plaintiff's ability to go on walks with her neighbor, go shopping with
 13 her cousin, go to the mall and restaurants with her children, live by herself, and take public
 14 transportation. AR 20–21. The Court finds the ALJ's reasoning with regards to most of the
 15 activities identified by the ALJ unpersuasive, as Plaintiff did not testify to being unable to
 16 perform them—during the hearing, she explained that she was prevented from doing them when
 17 her symptoms increase in severity. AR 55–57. Thus, the Court cannot say the ALJ reasonably
 18 rejected Plaintiff's testimony based on her activities of daily living.

19 Finally, the ALJ rejected Plaintiff's testimony because of its inconsistency with the
 20 objective medical evidence. AR 20–21. An ALJ may reject a claimant's symptom testimony
 21 when it is contradicted by the medical evidence. *See Carmickle v. Comm'r, Soc. Sec. Admin.*,
 22 533 F.3d 1155, 1161 (9th Cir. 2008) (citing *Johnson v. Shalala*, 60 F.3d 1428, 1434 (9th
 23 Cir.1995)). Here, the ALJ cited treatment notes which show Plaintiff repeatedly reported

1 improvement of her symptoms because of her medications. *See* AR 446 (“She states [her
 2 medications] are working well for her), 454, 637 (“Patient … states that her medication … helps
 3 her focus, and also able to finish things that she does”), 639 (“She says that her mood has been
 4 ok lately and he finds that the medication is working well. She feels good at this time.”), 641,
 5 644 (“She says both medications are working very well for her.”). The record also shows that
 6 when under medication, Plaintiff was able to work as a home caretaker and clean and cook
 7 throughout the day. *See* AR 639. Plaintiff argues the ALJ’s citation were selective, as her
 8 overall record indicates her symptoms waxed and waned and her improvement was not long
 9 term. *See* Dkt. 12 at 5; Dkt. 14 at 4. Yet the evidence Plaintiff cited mostly supports the ALJ’s
 10 finding. They show that Plaintiff reported she is “happy with her care,” her medication helps her
 11 anxiety, she had not had panic attacks in months, she is “happy with much of her life in terms of
 12 housing and relationship with her children,” and she does not remember bad dreams and
 13 nightmares when under medication. *See* AR 600, 613, 615. Plaintiff also attributed increase of
 14 her symptoms to COVID-19, because she was ““running out of medication,”” or to other external
 15 stressors, such as her ex-husband. *See* AR 594, 600, 606–07, 613, 620. In sum, the ALJ’s
 16 assessment of Plaintiff’s record is supported by substantial evidence. Thus, in rejecting
 17 Plaintiff’s testimony based on its inconsistency with objective medical evidence, the ALJ did not
 18 err.

19 Although the ALJ’s first two reasons for rejecting Plaintiff’s testimony were erroneous,
 20 Plaintiff has failed to show the ALJ committed harmful error. *See Ludwig v. Astrue*, 681 F.3d
 21 1047, 1054 (9th Cir. 2012) (holding that the party challenging an administrative decision bears
 22 the burden of proving harmful error) (citing *Shinseki v. Sanders*, 556 U.S. 396, 407–09 (2009)).
 23 An error is harmless “where it is ‘inconsequential to the ultimate nondisability determination.’”

1 *Molina*, 674 F.3d at 1115 (quoting *Carmickle*, 533 F.3d at 1162). As the ALJ gave at least one
2 valid reason for rejecting Plaintiff's testimony, his inclusion of erroneous reasons was
3 inconsequential and therefore harmless. *See id.* (quoting *Batson v. Comm'r of Soc. Sec. Admin.*,
4 359 F.3d 1190, 1197 (9th Cir. 2004)).

5 B. Medical Opinion Evidence

6 Plaintiff contends the ALJ erred in evaluating the medical opinion evidence provided by
7 (1) Dr. Stamschrer, (2) Dr. McCaw, and (3) Mr. Cirilo Adao, PA-C. Dkt. 12 at 6–9.

8 Plaintiff submitted her applications after March 27, 2017. AR 15, 79, 91. Under the
9 applicable regulations, ALJs must consider every medical opinion in the record and evaluate
10 each opinion's persuasiveness, using five factors (supportability, consistency, relationship with
11 claimant, specialization, and other), with supportability and consistency being the two most
12 important factors. *Woods v. Kijakazi*, 32 F.4th 785, 791 (9th Cir. 2022); 20 C.F.R. §
13 416.920c(a). Supportability means the extent to which a medical source supports the medical
14 opinion by explaining the “relevant … objective medical evidence.” 20 C.F.R. § 416.920c(c)(1).
15 Consistency means the extent to which a medical opinion is “consistent … with the evidence
16 from other medical sources and nonmedical sources in the claim.” 20 C.F.R. § 416.920c(c)(2), §
17 404.1520c(c)(2). “An ALJ cannot reject an examining or treating doctor's opinion as
18 unsupported or inconsistent without providing an explanation supported by substantial
19 evidence.” *Woods*, 32 F.4th at 792.

20 1. Dr. McCaw

21 In January 2020, Dr. W. Kefron McCaw completed a mental evaluation of Plaintiff by
22 conducting a mental status examination and reviewing notes from Plaintiff's social worker. AR
23 563–68. Dr. McCaw diagnosed her with PTSD “with panic attacks”; “Opioid use disorder, mild

1 to moderate, in reported sustained remission”; and “R/O [rule out] ADHD.” AR 565. Based on
 2 Plaintiff’s impairments, Dr. McCaw opined that Plaintiff would be markedly limited in:
 3 performing activities within a schedule, maintaining regular attendance, and being punctual
 4 within customary tolerances without special supervision; communicating and performing
 5 effectively in a work setting; maintaining appropriate behavior in a work setting; and completing
 6 a normal work day and work week without interruptions from psychologically based symptoms.
 7 AR 565–66.

8 The ALJ first rejected Dr. McCaw’s opinion because it was “based on only one
 9 examination.” AR 21. Under the new regulations, the frequency of a claimant’s visits with a
 10 medical source is a factor the ALJ can consider, as it “demonstrate[s] whether the medical source
 11 has a longitudinal record understanding of [the claimant’s] impairment[s].” *See* 20 C.F.R. §
 12 416.920c(c)(3)(ii). But it is neither the sole nor determinative factor. The regulations make it
 13 clear that a medical opinion’s supportability and consistency are the most important factors
 14 considered by the ALJ when considering medical opinions. *See* 20 C.F.R. § 416.920c(b)(1).
 15 Thus, that Dr. McCaw has only evaluated Plaintiff once is not by itself a valid reason the ALJ
 16 can use to reject the doctor’s opinion.

17 The ALJ also rejected Dr. McCaw’s opinion for its inconsistency with the longitudinal
 18 record, finding that Plaintiff’s record “suggest[ed] improvements in mental health symptoms”
 19 due to her medication. *See* AR 21. An ALJ may reasonably reject a doctor’s opinions when they
 20 conflict with or are contradicted by the medical evidence. *See Batson v. Comm’r of Soc. Sec.*
 21 *Admin.*, 359 F.3d 1190, 1195 (9th Cir. 2004) (holding that a treating physician’s opinion may
 22 properly be rejected where it is contradicted by other medical evidence in the record). In this
 23 case, the ALJ’s assessment of Plaintiff’s record is substantially supported. The treatment notes

1 the ALJ identified include Plaintiff's own reports that she is doing well under her ADHD
 2 medication and that she can better focus and concentrate. *See* AR 647, 652, 660, 666. Plaintiff
 3 also reported that, because of her medication, she has not been in a depressed mood, and that she
 4 "no longer experiences excessive nervousness, fear, apprehension, and worry" when she
 5 complies with her anxiety medication. AR 669. Given that these findings negate Dr. McCaw's
 6 opinion about the effects of Plaintiff's mental impairments, the ALJ could reasonably find Dr.
 7 McCaw's opinion lacking in persuasiveness. Thus, in rejecting Dr. McCaw's opinion with its
 8 inconsistency with the longitudinal record, the ALJ did not err.

9 As the ALJ has given at least one valid reason, supported by substantial evidence, to
 10 reject Dr. McCaw's opinion, the Court need not further assess the other reasons offered by the
 11 ALJ. Even if the ALJ committed error on those grounds, those errors would be harmless. *See*
 12 *Carmickle*, 533 F.3d at 1162-1163 (inclusion of erroneous reasons is harmless).

13 2. Dr. Stamschror

14 Dr. Justin Stamschror completed a psychiatric evaluation in May 2019 by conducting a
 15 mental status exam and reviewing Plaintiff's medical records. AR 433–37. Based on Plaintiff's
 16 performance on her exam, Dr. Stamschror opined that Plaintiff's ability to perform simple and
 17 repetitive tasks is adequate, her ability to perform detailed and complex tasks is "somewhat
 18 impaired," and her ability to perform work activities on a consistent basis without special or
 19 additional instructions is "also somewhat impaired." AR 437. He also opined that Plaintiff's
 20 ability to perform work activities at an adequate pace, maintain regular attendance in the
 21 workplace and complete a normal workday, and ability to interact with coworkers and adapt to
 22 workplace stressors is "likely poor." *See id.*

23 The ALJ found the portion of Dr. Stamschror's opinion about Plaintiff's ability to

1 perform simple tasks supported by the evidence, but rejected the rest because of its inconsistency
2 with Plaintiff's record showing improvement from medication. *See* AR 20. As stated, an ALJ
3 may reasonably reject a doctor's opinions when they conflict with or contradicted by the medical
4 evidence. *See Batson*, 359 F.3d at 1195. Here, the ALJ cited several times when Plaintiff herself
5 found her ADHD medication effective in helping her focus and finish tasks, that hat her mood
6 has been "ok lately," that she "feels good," that her PTSD medication has been working well,
7 that her anxiety is better, that she is sleeping better, and that she "is happy with her current
8 regimen." *See* AR 637, 639, 641, 644. The record does show Plaintiff experienced increased
9 anxiety and stress, but the ALJ properly pointed out that the record also shows this was caused
10 by external stressors, namely her familial issues. *See* AR 579, 609. The ALJ also properly
11 pointed out her records show she can live with others, she believes she gets along with others,
12 and she endorsed positive relationships with the couple she was living with, her close friends and
13 neighbors, though she herself seldom socializes. AR 578–81, 588. Based on Plaintiff's own
14 reports of improvement and ability to form positive relationships with others, and given that the
15 record shows the worsening of Plaintiff's symptoms is due to external stressors, the ALJ could
16 reasonably find Dr. Stamschror's opinion lacking in persuasiveness. Thus, in rejecting his
17 opinion because of its inconsistency with the longitudinal record, the ALJ did not err.

18 3. Cirilo Adao, PA-C

19 Mr. Adao, one of Plaintiff's treating sources, completed a mental residual functional
20 capacity assessment prepared by Plaintiff's counsel in March 2021. AR 684–87. Mr. Adao
21 indicated Plaintiff was markedly limited in her ability to: carry out very short and simple
22 instructions, carry out detailed instructions, interact appropriately with the public, accept
23 instructions and respond appropriately to criticisms from supervisors, and responding changes in

1 the work setting. AR 685–87. When asked how often Plaintiff would need to miss work each
2 month because of her mental impairments, Mr. Adao wrote one to two days per month. AR 687.
3 Finally, when asked if Plaintiff’s impairments would substantially interfere with her ability to
4 work at least 20 percent of the time, Dr. Adao said, “[Y]es.” *Id.*

5 The ALJ rejected Mr. Adao’s opinion because of its general inconsistency with “the
6 longitudinal record showing that [Plaintiff] had good results with her mental health medication,
7 including improved focus and concentration.” *See* AR 22. As stated above, an ALJ may
8 reasonably reject a medical opinion when it conflicts with or contradicted by the medical
9 evidence. *See Batson*, 359 F.3d at 1195. Further, as discussed above, Plaintiff’s record shows
10 she repeatedly reported improvement of her mental health symptoms because of her medications,
11 and that she reported forming positive relationships and even live with others. *See* AR 578–81,
12 588, 637, 639, 641, 644, 647, 652, 660, 666. As these records largely undermine Mr. Adao’s
13 opinion, the Court cannot say the ALJ unreasonably rejected Mr. Adao’s opinion for its
14 inconsistency with the medical record. Accordingly, the Court finds the ALJ did not err.

15 **IV.**
16 **CONCLUSION**

17 For the foregoing reasons, the Commissioner’s final decision is **AFFIRMED** and this
18 case is **DISMISSED** with prejudice.

19 DATED this 18th day of November, 2022.

20 
21 John H. Chun
22 United States District Judge
23